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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,287	11/12/2003	Robert J. Mills	14580	9323

7590 08/29/2005

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EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,287

Applicant(s)

MILLS ET AL

Examiner

Joseph F. Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 7,8,11,12,18,19,22,23,28,29,32 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,9,10,13-17,20,21,24-27,30 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Specification

1. The amendment filed 03 June 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: added language in the paragraph beginning at the top of page 6 and in the paragraph beginning on page 7, line 9.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-6, 9, 10, 13-17, 20, 21, 24-27, 30, and 31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The originally filed specification focuses on disclosing the interrelationship of the chair and work surface area of the desk to provide a chair and desk combination

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that is adjustable for users of different heights and has a work surface area large enough to simultaneously support a lap top computer and an open text book. However, the originally filed specification does not address or imply to one of ordinary skill in the art that the inventor contemplated a chair and desk combination wherein the height of the seating surface is vertically adjustment independently of the distance between the rearward edge of the work surface and the forward edge of the seating surface and/or wherein the distance between the rearward edge of the work surface is laterally adjustable with respect to the forward edge of the seating surface independently of the height of the seating surface. How can the distance of the forward edge of the seating surface and the rearward edge of the work surface be completely independent if vertical adjustment of the seating surface or lateral adjustment of work surface inherently brings the forward edge of the seating surface closer to the rearward edge of the work surface? Moreover, if the originally filed specification adequately conveys these features to one skilled in the art, then why has the applicant submitted amendments to add language to the specification reciting these features?

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, and 4, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,039,392 to Dencker.

Dencker discloses a chair and desk combination that includes all the limitations recited in claims 1, 2, and 4, as best understood. Dencker shows a chair and desk combination having a base 40 (see Fig. 1), a chair 50 attached to the base and including a seating surface 51 with a forward edge, a work surface 20 attached to the base and including a rearward edge and a work surface area between about 80 square inches and about 1100 square inches (see column 2, lines 61-62), a pair of parallel, horizontal rails 41c (Fig. 6A) of the base with each horizontal rail having forward and rearward ends, and a pair of parallel riser rails 41b (Fig. 6A) attached to the work surface and each including an upper portion and a lower most end wherein the forward end of the each horizontal rail is attached to the lower most end of each riser rail, and the chair is capable of swiveling about a vertical axis through an arc of at least 15° (see column 4, lines 35-41). The height of the seating surface is vertically adjustable between minimum and maximum heights wherein the vertical adjustment is in no way hindered by the position of the rearward edge of the work surface. Therefore, the height of the seating surface is vertically adjustable independently of the distance between the rearward edge of the work surface and the forward edge of the seating surface.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 5, 6, 13-17, and 24-27, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dencker in view of U.S. Patent No. 2,168,910 to Merrill.

Dencker discloses a chair and desk combination that is basically the same as that recited in claims 3, 5, 6, 13-17, and 24-27, as best understood, except that the work surface lacks slide sections for lateral adjustment of the work surface, as recited in the claims. Merrill shows a chair and desk combination similar to that of Dencker wherein the combination has a base 10,13 (Fig. 2) with parallel riser rails 35 (Fig. 5) attached to the base, a chair (Fig. 2) with a seating surface 15 (Fig. 2), a work surface 23 (Fig. 2) defined on a substrate 33 (Fig. 3) with an underside, a pair of parallel first slide sections 38,39 (Fig. 4) attached to an upper portion of the riser rails and including a pair of transverse rails, a pair of parallel second slide sections 24 (Fig. 4) attached to the underside of the substrate and including a pair of slide rods, each first slide section cooperates with one of the second slide sections so that a rearward edge of the work surface can be laterally adjusted with respect to a forward edge of the seating surface independently of the height of the seating surface by sliding the work surface forward or rearward, and each of the slide rods slidably disposed within both transverse rails. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair and desk combination of Dencker such that the distance between the rearward edge of the work surface is laterally adjustable with

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respect to the forward edge of the seating surface independently of the height of the seating surface, the work surface is defined on a substrate with an underside, the upper portions of the riser rails are attached to a pair of parallel first slide sections, a pair of parallel second slide sections are attached to the underside of the substrate, and each first slide section cooperates with one of the second slide sections so that the rearward edge of the work surface can be laterally adjusted by sliding the work surface forward with respect to the seating surface or by sliding the work surface rearwardly with respect to the seating surface wherein the first slide sections have a pair of transverse rails and the second slide sections have a pair of slide rods such that each of the slide rods being slidably disposed within both transverse rails, such as the chair and desk combination disclosed in Merrill. One would have been motivated to make such a modification in view of the suggestion in Merrill that the independently laterally adjustable work surface has slide sections configured to provide telescopic interfitting of the substrate and riser rails allowing forward and rearward movement of the work surface to accommodate users of in both standard schools and orthopedic schools.

8. Claims 9, 10, 20, 21, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dencker in view of Merrill as applied to claims 3, 5, 6, 13-17, and 24-27 above, and further in view of U.S. Patent No. 5,507,550 to Maloney.

Dencker, as modified, discloses a chair and desk combination that is basically the same as that recited in claims 9, 10, 20, 21, 30, and 31 except that the slide sections lack a notched rail and a latch, as recited in the claims. Maloney shows a chair and desk combination similar to that of Dencker wherein the combination has parallel

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riser rails 44 (Fig. 2), a work surface 16 (Fig. 1) defined on a substrate (Fig. 6) with an underside, a notched rail 113 (Fig. 2) on a first slide section that includes a plurality of notches 113b (Fig. 6), a latch 116 (Fig. 6) on the underside of the substrate, and a latch release mechanism 132 (Fig. 6) disposed proximate an edge for access by the user such that the latch is capable of cooperating with the plurality of notches to alternatively fixedly engage and disengage the work surface with respect to the riser rails so that the work surface can be slid closer or farther from a seating surface 22 (Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the chair and desk combination of Dencker such that the first slide sections have a notched rail with a plurality of notches, the second slide sections have a latch, and a latch release mechanism on the latch that is disposed proximate to the rearward edge of the work surface wherein the latch is capable of cooperating with the notches in the notched rail to alternatively fixedly engage the work surface with respect to the base at any one of a plurality of distances from the seating surface and disengage the work surface from the base so that the work surface can be slid closer to the seating surface or farther from the seating surface, such as the chair and desk combination disclosed in Maloney. One would have been motivated to make such a modification in view of the suggestion in Maloney that the latch and notch configuration on the substrate and slide section provides a work surface that may be moved either forward or rearward.

Response to Arguments

9. Applicant's arguments filed 03 June 2005 have been fully considered but they are not persuasive. Applicant argues that Dencker fails to teach a chair and desk combination having a seating surface that can be vertically adjusted independently of the distance between the rearward edge of work surface and the forward edge of the seating surface because adjustment of the height of the seating surface necessarily adjusts the distance between the rearward edge of the work surface and the forward edge of the seating surface. However, Applicant is interpreting the claim limitation similarly recited in claims 1, 14, and 24 far too narrowly. The claim limitation merely requires that the vertical adjustment of the seating surface's height be independent of the distance between the rearward edge of the work surface and the forward edge of the seating surface. Dencker has a seating surface that is vertically adjustable along the seat mounting section 41e (Fig. 3) between minimum and maximum heights. The vertical adjustment of the seating surface does not interact and is not hindered or controlled by the work surface. Therefore, the seating surface is vertically adjustable independently of the distance between the rearward edge of the work surface and the forward edge of the seating surface. While the distance between the rearward edge of the work surface and the forward edge of the seating surface of Dencker may narrow as the seating surface vertically adjusted because of the angling of the seating mounting section 41e, the distance between the rearward edge of the work surface and the forward edge of the seating surface has no effect, i.e. is independent, of the vertical adjustment of the seating surface. If the angled movement of the chair of Dencker

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along the seating mounting section constrained vertical adjustment of the seating surface, then the vertical adjustment of the seating surface would be dependent on the distance of the rearward edge of the work surface and the forward edge of the seating surface. However, this is not the case in the chair and desk combination of Dencker. Please note that the arguments on page 15 of the Remarks filed 03 June 2005, attempt to address the amendment to claim 13. However, no amendments to claim 13 recite limitations toward the independent vertical adjustment of the seating surface. See the above rejections of claims 3, 5, 6, 9, 10, 13-17, 20, 21, 24-27, 30, and 31 that were necessitated by the amendments to the claim filed 03 June 2005.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

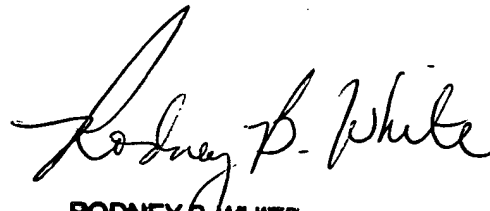
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JE
August 21, 2005


RODNEY B. WHITE
PRIMARY EXAMINER